

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

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U.S. BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:)
Joseph Willard Johnson,) CASE NO: 98-07598-W
Debtor.) CHAPTER 12
_____)

TO: All Creditors and Parties in interest:

NOTICE AND APPLICATION FOR SALE OF PROPERTY FREE AND CLEAR OF LIENS

YOU ARE HEREBY NOTIFIED that the debtor is applying for approval to sell the property of the debtor's estate described below free and clear of all liens and encumbrances according to the terms and conditions stated below:

TAKE FURTHER NOTICE that any response, return and/or objection to this application, should be filed with the Clerk of the Bankruptcy Court no later than twenty (20) days from service of motion/application and a copy simultaneously served on all parties in interest.

TAKE FURTHER NOTICE that no hearing will be held on this application unless a response, return and/or objection is timely filed and served, in which case, the Court will conduct a hearing on April 24, 2001, at 9:30 a.m., at The United States Bankruptcy Court, 1100 Laurel Street, Columbia, South Carolina. No further notice of this hearing will be given.

TYPE OF SALE: Private

PROPERTY TO BE SOLD: All marketable timber situated on debtor's real estate which consist of a 60 acre tract and a 55.5 acre tract located at 825 Puddin Swamp Road in Lynchburg, South Carolina. Timber shall be sold by conveying a timber deed to purchaser.

PRICE: \$70,000.00

TERMS OF SALE: \$70,000.00 shall be paid at closing and turned over to the Chapter 12 Trustee to disburse under the plan after deducting the compensation and commissions outlined below. In other words, the net proceeds shall be used to pay debtor's plan payment to the mortgage holders for 2001. The remainder of the net proceeds shall be paid to the mortgage holders to be applied toward future payments. In other words, Douglas L. Cook shall receive all of the net timber proceeds from the 33.8 acre tract and Farm Service Agency shall receive all of the net timber proceeds on the remaining tracts. Seller shall pay for timber deed preparation and any documentary stamps out of the

98/99

proceeds. Purchaser to pay any and all other costs at closing other than the compensation and commissions outlined below which are seller's responsibility.

APPRAISAL VALUE: William R. Gaskins, forester and agent, estimates the value of the timber to be \$70,000.00 based upon a cruise of same. The value of the timber on the 33.8 acre tract is \$19,428.97.

BUYER: Keels Land and Timber. Buyer is no relation to nor has any interest in or connection with the seller.

PLACE AND TIME OF SALE: The parties desire to complete the sale as soon as possible after court approval is obtained. The closing will take place at the office of the attorney for the debtor whose address is shown below.

SALES AGENT/AUCTIONEER/BROKER: William R. Gaskins of the forest resource firm of Shaw, McLeod, Belser and Hurlbutt, Inc. marketed the timber and located the buyer. If parties have questions concerning the sale, they may be addressed to S. Wayne Gamble, III, attorney for the debtor, at P.O. Box 2468, Sumter, South Carolina, 29151-2468 or call (803) 778-2130. Or if a party desires to contact Mr. Gaskins, his address is P.O. Box 1919 Sumter, SC 29151 or he may be reached at (803) 983-2497.

COMPENSATION TO SALES AGENT/AUCTIONEER /BROKER/ETC.: William R. Gaskins and his firm desire to receive compensation in the amount of eight (8%) per cent of the total sales price of the timber, which would be \$5,600.00 and is subject to court approval.

ESTIMATED TRUSTEE'S COMMISSION ON SALE: 3% of additional benefit to estate above normal plan payment - \$780.00. After proper notice and court approval, trustee will seek his normal commission on plan payment.

LIENS/MORTGAGES/SECURITY INTERESTS ENCUMBERING PROPERTY:

- (a) Douglas L. Cook - First mortgage on a 33.8 acre tract contained within the 55.5 acre tract - claim amount - \$58,671.03 plus interest and attorney's fees since 4/21/97.
- (b) Farm Service Agency - Second mortgage on the 33.8 acre tract and first mortgage on the remainder of the 55.5 acre tract as well as the 60 acre tract - claim amount - \$582,960.79 as of 09/03/96 plus interest.
- (c) Judgments were obtained after the mortgages by Ella W. Gibbons, Southern Auto Parts d/b/a NAPA Auto Parts, and Alex Kelly d/b/a Kelly Grain Co.. All of these judgments were avoided by court order filed January 29, 1999 and are now treated as unsecured. Any lien or interest validly existing shall attach to the sales proceeds.

STATE WHETHER OR NOT LIEN ATTACHES TO PROCEEDS.

DEBTOR'S EXEMPTION: NONE.

PROCEEDS ESTIMATED TO BE PAID TO THE ESTATE: After the payment of the costs of sale, the broker's commission and the trustee's commission, it is estimated that \$61,931.00 will be paid to the estate.

Applicant is informed and believes that it would be in the best interest of the estate to sell said property by private sale. Applicant also believes that the funds to be recovered for the estate from the sale of said property justify its sale and the filing of this application.

The court may consider additional offers at any hearing held on this notice and application for sale. The court may order at any hearing that the property be sold to another party on equivalent or more favorable terms.

The trustee or debtor in possession, as applicable, may seek appropriate sanctions or other similar relief against any party filing a spurious objection to this notice and application.

THIS 6th DAY OF MARCH, 2001.

Joseph Willard Johnson, Debtor

BY: Betty Johnson
Betty Johnson, Personal Representative
825 Puddin Swamp Road
Lynchburg, SC 29080

S. Wayne Gamble, III
S. Wayne Gamble, III
Attorney for Debtor
16 Law Range; P.O. Box 2468
Sumter, SC 29151-2468
(803) 778-2130
District Court I.D. No. 964

Address of Court:
United States Bankruptcy Court
P. O. Box 1448
1100 Laurel St.
Columbia, SC 29202